

JUDGE RAKOFF
UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

10 cv 7618

X
SHULAMIS LIEBER,

Plaintiff,

-against-

CREDIT PROTECTION ASSOCIATION,

Defendant(s).

Civil Action No.:



Plaintiff SHULAMIS LIEBER ("Plaintiff"), by and through her attorneys, M. Harvey Rephen & Associates, P.C., as and for its Complaint against the Defendant CREDIT PROTECTION ASSOCIATION ("CPA") hereinafter referred to as Defendant(s), respectfully sets forth, complains and alleges, upon information and belief, the following:

INTRODUCTION/PRELIMINARY STATEMENT

1. Plaintiff brings this action on his own behalf for damages and declaratory and injunctive relief arising from the Defendant's violation(s) of §1692 et seq. of Title 15 of the United States Code, commonly referred to as the Fair Debt Collections Practices Act ("FDCPA").

PARTIES

2. Plaintiff is a resident of the State of New York, residing at 262 West 73rd St., N.Y., N.Y. 10023.

3. Defendant CREDIT PROTECTION ASSOCIATION is a corporation organized in Texas, with their main office at 13355 Noel Rd, Dallas, Texas.

4. CPA is a "debt collector" as the phrase is defined and used in the FDCPA under 15 USC §1692a(6).

JURISDICTION AND VENUE

5. The Court has jurisdiction over this matter pursuant to 28 USC §1331, as well as 15 USC §1692 et seq. and 28 U.S.C. §2201. If applicable, the Court also has pendent jurisdiction over the state law claims in this action pursuant to 28 U.S.C. §1337(a).

6. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1331(b)(2).

FACTUAL ALLEGATIONS

7. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "6" herein with the same force and effect as if the same were set forth at length herein.

8. On information and belief, Defendant, on behalf of a third-party, began collecting an alleged consumer debt from the Plaintiff.

9. On information and belief, and better known to the Defendant, the Defendant began its collection efforts and campaign of communicating with the Plaintiff by calling the house phone of Rich Marinelli and leaving a pre-recorded computerized message on his phone since at least June of 2010 through August – 2010.

10. On Thursday July 19th, 2010 at 5:01 PM the Defendant left the following First Message on the Plaintiff's answering machine: "Hello, this message is for Lieber Shulamis. If this is not Lieber Shulamis please discontinue listening to this message. This is Credit Protection Association calling concerning an important business matter. Please call us back at 1. 877. 278.5106. Please refer to account ref. # 01554138741. This is an attempt by a debt collector to collect a debt and any information received will be used for that purpose. Again our phone number is 1.877.278.5106. Thank you

11. All the Defendant's Messages violated 15 USC §1692c(b) by revealing to

a third party the existence of the Plaintiff's alleged debt.

12. The Defendant's Messages caused the Plaintiff great embarrassment and emotional stress.

13. The Defendant's Message further violated 15 USC §1692g by failing to include in the Message or send within five days of the initial communication a written notice informing the Plaintiff of her right to dispute in writing the validity of the debt or any portion thereof within 30 days of the initial communication; that if it is disputed the Defendant will obtain verification of the debt or a copy of the judgment against the consumer and a copy of such verification or judgment will be mailed to the consumer; and that upon the Plaintiff's request within the thirty day period, the debt collector will provide the consumer with the name and address of the original creditor, if different from the current creditor.

14. The Defendant's failure to include the validation notice in the Message or send one in writing within five days of the initial communication was deceptive and further violated 15 USC §1692e – preface and(10) which prohibits the use of any false, deceptive or misleading representation or means in connection with the collection of any debt.

FIRST CAUSE OF ACTION
(Violations of the FDCPA)

15. Plaintiff repeats, reiterates and incorporates the allegations contained in paragraphs numbered "1" through "14" herein with the same force and effect as if the same were set forth at length herein.

16. Defendant's debt collection efforts attempted and/or directed towards the Plaintiff violated various provisions of the FDCPA, including but not limited to 15 USC §1692e – preface and(10), 15 USC §1692c(b), and 15 USC §1692g.

17. As a result of Defendant's violations of the FDCPA, the Plaintiff has been

damaged and is entitled to damages in accordance with the FDCPA.

DEMAND FOR TRIAL BY JURY

18. Plaintiff SHULAMIS LIEBER, hereby respectfully requests a trial by jury for all claims and issues in its Complaint to which it is or may be entitled to a jury trial.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff SHULAMIS LIEBER, demands judgment from the Defendants CREDIT PROTECTION ASSOCIATION as follows:

- A. For actual damages provided and pursuant to 15 USC §1692k(a)(1);
- B. For statutory damages provided and pursuant to 15 USC §1692k(2)(A);
- C. For statutory damages provided and pursuant to 15 USC §1692k(2)(B);
- D. For attorneys' fees and costs provided and pursuant to 15 USC §1692k(a)(3);
- E. A declaration that the Defendant's practices violated the FDCPA;
- F. For any such other and further relief, as well as further costs, expenses and disbursements of this action, as this Court may deem just and proper.

Dated: New York, New York

October 1, 2010

Respectfully submitted,

By: 
M. Harvey Rephen, (MR3384), Esq.
M. HARVEY REPHEN & ASSOCIATES, P.C.

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Attorney for the Plaintiff Shulamis Lieber

To: CPS
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75240 Dallas, Texas

(Via Prescribed Service)

Clerk,
United States District Court, Southern of New York
(For Filing Purposes)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

CASE NO.:

SHULAMIS LIEBER,

Plaintiff(s),

-against-

CREDIT PROTECTION ASSOCIATION,

Defendant(s).

COMPLAINT

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